

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: <u>11/29/10</u>
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - - x

UNITED STATES OF AMERICA

-v.-

DAVID EDUARDO HELMUT MURCIA  
GUZMAN,

Defendant.

- - - - - x

CONSENT ORDER OF FORFEITURE  
AS TO SPECIFIC PROPERTIES

S1 09 Cr. 110 (WHP)

WHEREAS, on March 17, 2009, DAVID EDUARDO HELMUT MURCIA GUZMAN (the "defendant"), was charged in a one-count Superseding Indictment, S1 09 Cr. 110 (WHP) (the "Indictment"), with conspiring to commit money laundering, in violation of Title 18, United States Code, Section 1956;

WHEREAS, the Indictment included a forfeiture allegation seeking, pursuant to Title 18, United States Code, Section 982, all property, real and personal, involved in the money laundering offense and all property traceable to such property, including but not limited to the following:

a. At least approximately millions of dollars in United States currency, in that such sum in aggregate is property which was involved in the money laundering offense or is traceable to such property;

b. The real property located at 175 SW 7<sup>th</sup> Street, #1810, Miami, Florida 33130;

c. The real property located at 175 SW 7<sup>th</sup> Street, #1811, Miami, Florida 33130;

d. The real property located at 175 SW 7<sup>th</sup> Street, #2008, Miami, Florida 33130;

e. The real property located at 455 5<sup>th</sup> Avenue, Half Moon Bay, California 94019;

f. The real property located at 90 Alton Road, #601, Miami, Florida 33139;

g. The real property located at 20201 E. Country Club Drive, #902, Aventura, Florida 33180;

h. The real property located at 951 Brickell Avenue, #1906, Miami, Florida 33131;

i. The real property located at 951 Brickell Avenue, #2006, Miami, Florida 33131;

j. The real property located at 951 Brickell Avenue, #2304, Miami, Florida 33131; and

k. The real property located at 880 Biscayne Boulevard, Unit 2507, Miami, Florida 33132;

WHEREAS, on or about November 23, 2010, the defendant pled guilty to the Indictment pursuant to a plea agreement with the Government;

WHEREAS, under the terms of the plea agreement, the defendant admitted the forfeiture allegation and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 982: (i) a sum of money equal to \$7,000,000 in United States currency, representing all property, real and

personal, involved in the money laundering offense and all property traceable to such property; and (ii) all right, title and interest in the following property:

a. The real property located at 175 SW 7<sup>th</sup> Street, #1810, Miami, Florida 33130;

b. The real property located at 175 SW 7<sup>th</sup> Street, #1811, Miami, Florida 33130;

c. The real property located at 175 SW 7<sup>th</sup> Street, #2008, Miami, Florida 33130;

d. The real property located at 455 5<sup>th</sup> Avenue, Half Moon Bay, California 94019;

e. The real property located at 90 Alton Road, #601, Miami, Florida 33139;

f. The real property located at 20201 E. Country Club Drive, #902, Aventura, Florida 33180;

g. The real property located at 951 Brickell Avenue, #1906, Miami, Florida 33131;

h. The real property located at 951 Brickell Avenue, #2006, Miami, Florida 33131;

i. The real property located at 951 Brickell Avenue, #2304, Miami, Florida 33131; and

j. The real property located at 880 Biscayne Boulevard, Unit 2507, Miami, Florida 33132;  
(collectively, the "Specific Properties");

WHEREAS, the defendant consents to a money judgment in the amount of \$7,000,000 in United States currency, representing all property, real and personal, involved in the money laundering offense and all property traceable to such property and the forfeiture of all his right, title and interest in the Specific Properties;

WHEREAS, the defendant agrees that the Specific Properties are forfeitable to the United States because they constitute property involved in the money laundering offense charged in the Indictment;

WHEREAS, the defendant consents to this Consent Order of Forfeiture as to Specific Properties becoming final as to the defendant prior to sentencing, pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure;

WHEREAS, pursuant to Title 18, United States Code, Section 982, Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), 32.2(b)(6), and 32.2(c) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Properties to its possession and to notify any and all potential purchasers and transferees thereof of its interest therein;

NOW, THEREFORE, IT IS ORDERED, ADJOURNED AND DECREED THAT:

1. As a result of the offense charged in the Indictment, to which the defendant pled guilty, a forfeiture

money judgment in the amount of \$7,000,000 in United States currency shall be entered against the defendant.

2. All of the defendant's right, title and interest in the Specific Properties is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853(n). The defendant agrees that he will not file a claim or a petition for remission or mitigation in any forfeiture proceeding involving the Subject Properties and will not assist anyone else in doing so. The value of the defendant's interest in the Subject Properties forfeited to the United States shall be applied towards partial satisfaction of the forfeiture judgment in the amount of \$7,000,000 in United States currency.

3. Upon entry of this Consent Order of Forfeiture as to Specific Properties, the United States Marshals Service (or its designee) is authorized to seize the Specific Properties and hold the Specific Properties in its secure custody and control.

4. Pursuant to Rule 32.2(b)(4)(A) of the Federal Rules of Criminal Procedure, this Consent Order of Forfeiture as to Specific Properties is final as to the defendant upon entry of this Order, and shall be deemed part of the sentence of the defendant, and shall be included in the judgment of conviction therewith.

5. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal

Procedure and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States shall publish for at least thirty (30) consecutive days on the government internet site, [www.forfeiture.gov](http://www.forfeiture.gov), notice of this Preliminary Order of Forfeiture as to Specific Property and notice that any person, other than the defendant in this case, claiming an interest in the Specific Properties must file a petition within sixty (60) days from the first day of publication of the notice on this official government internet site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

6. This notice shall state that the petition shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Properties, shall be signed by the petitioner under penalty of perjury, and shall set forth the nature and extent of the petitioner's right, title and interest in the Specific Properties and any additional facts supporting the petitioner's claim and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

7. Pursuant to Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

8. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Properties pursuant to Title 21, United States Code, Section 853(n) and Rule 32.2(c)(2) of the Federal Rules of Criminal Procedure, in which all third-party interests will be addressed.

9. All payments on the outstanding money judgment shall be made by postal money order, bank or certified check, and payable, in this instance to the "United States Marshals Service," and delivered by mail to the United States Attorney's Office, Southern District of New York, Attn: Asset Forfeiture Unit, One St. Andrew's Plaza, New York, New York 10007.

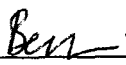
10. The Court shall retain jurisdiction to enforce this Order, and to amend it as necessary, pursuant to Federal Rule of Criminal Procedure 32.2(e).

11. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, upon entry of this Preliminary Order of Forfeiture as to Specific Property, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of the property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas, pursuant to Rule 45 of the Federal Rules of Civil Procedure.

12. The signature pages of this Order may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

PREET BHARARA  
United States Attorney for the  
Southern District of New York  
Attorney for Plaintiff


By:   
BENJAMIN NAFTALIS  
TELEMACHUS KASULIS  
MICHAEL LOCKARD  
Assistant United States Attorneys  
One St. Andrew's Plaza  
New York, NY 10007  
(212) 637-2456/2193

11/22/10  
DATE

DAVID EDUARDO HELMUT MURCIA GUZMAN  
DEFENDANT

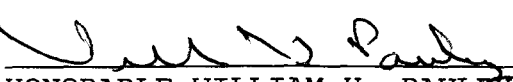
By:   
DAVID EDUARDO HELMUT MURCIA GUZMAN

11/23/10  
DATE

By:   
ROBERT E. ABREU, ESQ.  
Attorney for Defendant  
The Abreau Law Firm, LLC  
1001 Brickell Bay Drive, Suite 2206  
Miami, Florida 33131  
(305) 350-2700

11/23/10  
DATE

SO ORDERED:

  
HONORABLE WILLIAM H. PAULEY III  
UNITED STATES DISTRICT JUDGE

11/29/10  
DATE